

CENTRAL INTELLIGENCE AGENCYMENT OF STA

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Ms. Barbara Ennis
Director, Freedom of Information Staff
Bureau of Public Affairs
Department of State
Room 2811, New State
Washington, DC 20520

DEPARTMENT OF STATE
Bureau of Intelligence and Research

APR 24 1978

Office of Intelligence Liaison

Dear Ms. Ennis:

This letter solicits Department of State guidance on CIA handling of several aspects of the foreign biographic program and related materials under FOIA and related rules. The CIA can, if such action is desired by the Department, assume somewhat more responsibility which will relieve the Department of some presumably burdensome work. Before so doing, however, written Department agreement and generalized instructions are necessary. In addition, the Agency wishes assurance that (assuming reasonable performance on the part of the implementing units within the Agency) actions in accord with this agreement and the generalized instructions will be vigorously supported by the Department before the Attorney General, the courts, and whatever other bodies grow from legislation or Executive orders. The Agency can carry more of this FOIA and related burden in two specific areas.

First, you will recall that from the end of World War II to mid-1961, the Department of State had a Government-wide responsibility for biographic report writing on foreign political figures. In 1961 the responsibility for all civil foreign biographic report writing was consolidated into the Office of Central Reference of the CIA. The files and many of the people of the INR biographic program were transferred, and under DCID 1/9, the Office of Central Reference assumed a service of common concern in this area for the Federal Government at large.

FOIA or Executive Order 11652 requests that require action on old biographic sketches are now arriving almost daily. Practice in OCR to date has been to review the document to be declassified (searching the files first if necessary to find it) and to make recommendations on disposition of biographic reports involved. Those originated by State before the transfer are then forwarded to your office for action, either directly or via Presidential libraries.

OCR attempts to look at the source material for the report-- if it can be quickly recovered--and to determine the current status of the subject individual before making its recommendation.

If State wishes, OCR will assume full responsibility for processing under FOIA, etc., these pre-1962 documents. This proposal, again, concerns only biographic sketches written in INR and does not encompass any other State Department document.

For this proposal, Department views are needed on the criteria used to review the classified biographic sketch. OCR practice has been to remove material that reflects sensitive sources and methods, and information provided by foreign governments. In these areas guidance is not required. OCR practice, also, is to delete derogatory data for any foreign person if release of that data might be ill-regarded by the government or the press of the subject's home country. Evaluative data--even favorable--is generally removed if the person is still alive. Curricula vitae have generally been released. The removal of the derogatory and evaluative data has been justified by 5(B)(3) of Executive Order 11652 as it refers to foreign relations.

The second area of concern relates to classification review of biographic reports or sketches on foreign persons that are currently important in a foreign country or international organization. FOIA and other requests levied on CIA and concerning such persons are generally processed as follows. Unclassified reports--done at the request of the Protocol Office, Congressional requests, at the behest of the Secretariat or for press packages--are released. The Agency can find no grounds for the denial and most, if not all, are initially written to go into the public domain. Classified packages are generally denied in toto

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The ground for this denial is again 5(B)(3). The rationale for use of 5(B)(3) is that even partial release, i.e., documents with parts razored out, can create impediments to successful diplomatic performance as well as limit the ability of U.S. officials to acquire even basic data on foreign officials with whom any foreign activities must be conducted. OCR has frequently acted on such documents in the FOIA context without reference to the Department. Some have been transmitted for Department concurrence. The growing number of such requests and the increasing probability that legal action will result requires that the Agency and the Department achieve a common policy in this area, hopefully before we must together approach a judicial bench. The actions here are basically:

Does the Department wish to review those classified biographic sketches that are denied under a 5(B)(3) foreign policy ground and will the Department support the rather sweeping generalization that classified sketches on foreign personages currently important in their countries should be denied in total?

I recognize that this letter asked several difficult questions. It is not intended to pass the buck, however. It is, on the other hand, intended to see if we can arrive at a condition whereby paper shuffling can be eliminated and a mutually beneficial uniform approach to these problems can be reached.

We would prefer a considered response to a speedy one, if that be the choice, but the sooner a resolution is reached, the easier the work load on both agencies.

Sincerely

[Redacted Signature]

Gene F. Wilson
Information and Privacy Coordinator

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